IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

THURSDAY, THE 27TH SEPTEMBER 2007 / 5TH ASWINA 1929

MFA.No. 105 of 2003()

OPMV.119/1995 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KALPETTA
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APPELLANT: PETITIONERS
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1. ANORAMMAL JAMEELA
W/O. LATE SOOPY ANORAMMAL HOUSE,
POST PULPALLY, WAYANAD.

2. T.S.JASEENA D/O. LATE SOOPPY,
ANORAMMAL HOUSE, POST PULPALLY, WAYANAD.

3. T.S.RASHEEDA D/O. LATE SOOPPY,
ANORAMMAL HOUSE, POST PULPALLY, WAYANAD.

4. T.S.NASEERA, D/O. LAGE SOOPPY
ANORAMMAL HOUSE, POST PULPALLY, WAYANAD.
APPELLANTS 2 TO 4 BEING ARE REPRESENTED BY
THEIR GUARDIAN AND NEXT FRIEND, THE
1ST APPELLANT.

BY ADV. SRI.G.BALAMURALEEDHARAN (PARAVUR)
SRI.MATHEWS V.JACOB (PARAVUR)
SRI.N.T.NANDAKUMAR (PARAVUR)

RESPONDENTS: RESPONDENTS
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1. K.J.STEPHEN S/O. JOSEPH,
KARIALAKKAL HOUSE, PATTANIKKOOPPU, PULPALLY,
WAYANAD.

2. M/S. UNITED INDIA INSURANCE CO.LTD.,
SULTHANBATHERY, WAYANAD.

BY ADV. SRI.R.DIVAKARAN
SRI.BINOI GEORGE (CHERUKARA)
SMT.P.A.REZIYA

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 27.9.07, THE COURT ON 27/09/2007 DELIVERED THE FOLLOWING:

J.B.KOSHY & K.HEMA,JJ.

M.F.A.NO.105 OF 20O3

Dated this the 27th day of September, 2007

JUDGMENT

Koshy, J.

Appellants are the widow and three children of a motor accident victim who succumbed to the injuries suffered in an accident on 2.12.1994 while he was travelling in a Tempo Trax bearing registration No.KL-12/4035. The Tribunal found that the accident occurred due to the negligent driving of the vehicle and the vehicle was validly insured with the second respondent Insurance Company. However, against the claim limited to Rs.4 lakhs, the Tribunal awarded only Rs.1,80,600/- as compensation. Only the quantum of compensation is disputed in the appeal. Hence we are considering only that part of the award. The deceased was a loading and unloading worker. He was also having passport. According to the appellants, the deceased expected a job in Gulf. As a loading and unloading worker, it was claimed that he was getting more than Rs.3,000/- per month. It is submitted that he was a 38 years old able bodied man and in 1994 when the accident occurred, even a manual worker would get Rs.100/- per day. But the Tribunal took

only Rs.1,300/- as the notional income and family contribution at Rs.1,200/- per month as the income was not proved. Under the second schedule to the Motor Vehicles Act, even a non earning person or a minor, his notional income is fixed as Rs.15,000/- per year. Since he was an able bodied man and considering the wages for an unskilled man, we fix Rs.2,400/- as monthly income on a minimum assessment. If one-third is deducted for personal expenses, loss of dependency will be Rs.1,800/-. He was maintaining a family. The Tribunal fixed the multiplier at 16. There is no ground for enhancement. Therefore, compensation payable will be Rs.1600 x 12 x 16 = 3,07,200. The Tribunal has awarded only Rs.1,53,600. If that is deducted, additional compensation payable will be Rs.1,53,600/-. Even though it is contended that compensation awarded under other heads is very low. Considering the total amount awarded, we are not enhancing the same. The additional amount of Rs.1,53,600/- should be deposited by the second respondent Insurance Company with 7.5 % interest from the date of application till the date of deposit over and above the compensation awarded by the Tribunal. On deposit, one-fourth of the additional amount can be released to the first appellant and the balance in

equal amount should be deposited in a nationalised bank in the name of the minors. This can be released to them at the time of their marriage.

The appeal is allowed, partly.

J.B.KOSHY, JUDGE

K.HEMA, JUDGE

vgs.

J.B.KOSHY & K.HEMA, JJ.

M.F.A.NO. 105 OF 2003

JUDGMENT

27.9.2007